

## SENATE BILL NO. 457

INTRODUCED BY G. BRANAE

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A SCENIC-HISTORIC BYWAYS PILOT PROJECT; DESIGNATING CERTAIN HIGHWAYS THAT MAY BE INCLUDED IN THE PROJECT; AMENDING THE DEPARTMENT OF TRANSPORTATION'S RULEMAKING AUTHORITY FOR ADMINISTERING THE PROJECT; ~~AMENDING SECTION 60-2-602, MCA;~~ AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

WHEREAS, since the inception on the Montana scenic-historic byway program, no scenic-historic byways designations have been applied for by local jurisdictions, nor granted by the Montana Department of Transportation; and

WHEREAS, adjoining states have acquired millions of dollars of federal highway funds for local scenic-historic byway projects; and

WHEREAS, Montana's lack of a viable state scenic-historic byway program has resulted in loss of opportunities to acquire grant funding for scenic-historic byway projects by local jurisdictions including Indian Tribes; and

WHEREAS, designation of a scenic-historic byway can have positive economic, quality of life, and educational outcomes for communities and the state; and

WHEREAS, the designation of a scenic-historic byway does not diminish authorities of existing jurisdictions for local land planning or management, nor does it create any new authorities; and

WHEREAS, applications for designation of a local road as a state scenic-historic byway must be prepared locally following local processes in consultation with local citizens and road administrators; and

WHEREAS, the Montana Department of Transportation has concluded that a scenic-historic byways program is feasible in Montana and that the Department is capable of incorporating a program into its administrative responsibilities; and

WHEREAS, current state law on scenic-historic byways protects private property rights but requires local jurisdictions to make assurances that ~~they have no authority or capability to make.~~ ARE DIFFICULT TO COMPLY WITH;  
AND

WHEREAS, MONTANA HAS ROADS WITH OUTSTANDING QUALIFICATIONS FOR SCENIC-HISTORIC BYWAY DESIGNATION AND THESE ROADS HAVE SIGNIFICANT NEED FOR NEW FUNDING OPPORTUNITIES FOR PROJECT FUNDING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Scenic-historic byways pilot project.** ~~(1)~~ There is a scenic-historic byways pilot project to allow locally developed applications SUBMITTED BY THE LOCAL GOVERNMENT OR GOVERNMENTS OF JURISDICTION to the scenic-historic byways program established in 60-2-601 to be considered, approved, or rejected by the department pursuant to the rules adopted in 60-2-602. The department shall offer to review applications for designations involving the following highways:

~~(a)~~(1) the warrior trail highway as designated in 60-1-214;

~~(b)~~(2) the trail of the arrow, consisting of parts of U.S. highway routes 418, 313, 463, and 451 from the Crow reservation boundary on route 418 to Pryor, Saint Xavier, Lodge Grass, and Crow Agency to the start of the warrior trail highway;

~~(c)~~(3) black otter trail road in swords park in Billings;

~~(d)~~(4) Montana route 1, also known as the pintler scenic route, between the interstate exits at Anaconda and Drummond;

~~(e)~~(5) looking glass road on U.S. highway 49 from Kiowa junction to East Glacier; ~~and~~

~~(f)~~(6) giant springs road in Great Falls from river road to 67th street;

(7) BUREAU OF INDIAN AFFAIRS ROUTE 114 AND COUNTY ROAD 234; AND

(8) HARDING WAY HIGHWAY FROM BUTTE TO WHITEHALL;

(9) U.S. HIGHWAY 89 FROM THE WYOMING BORDER TO THE CANADIAN BORDER.

~~Section 2. Section 60-2-602, MCA, is amended to read:~~

~~"60-2-602. Scenic-historic byways program -- rules. (1) The department shall adopt rules to effectively administer the scenic-historic byways program. The rules must include the criteria that will be considered for designating a road for inclusion in the scenic-historic byways program.~~

~~(2) In developing the criteria, to be included in the rules, for designating a road for inclusion in the scenic-historic byways program, the advisory council, commission, and department shall specifically address:~~

~~(a) factors that allow each locality choosing to participate in or seeking participation in the scenic-historic byways program the opportunity to:~~

~~(i) enhance the experience of the traveling public;~~

- 1       ~~—— (ii) stimulate or allow for economic development and new marketing strategies; or~~  
2       ~~—— (iii) preserve intrinsic resources for the benefit of future generations;~~  
3       ~~—— (b) a methodology by which a locality choosing to participate in or seeking participation in the~~  
4       ~~scenic-historic byways program may participate in the national scenic byways program, described in section 1047~~  
5       ~~of Public Law 102-240;~~  
6       ~~—— (c) means by which a road may be excluded from designation as a scenic-historic byway by:~~  
7       ~~—— (i) an incorporated municipality for a road or segment of a road within its jurisdiction; or~~  
8       ~~—— (ii) a landowner for a road or segment of a road adjacent to the landowner's private property;~~  
9       ~~—— (d) factors to be considered in assessing the intrinsic, scenic, historic, recreational, cultural,~~  
10       ~~archaeological, educational, or natural qualities of the road nominated for inclusion in the scenic-historic byways~~  
11       ~~program;~~  
12       ~~—— (e) factors to be considered in a locality's corridor management plan, including that the plan:~~  
13       ~~—— (i) serves as a visioning tool to provide direction for enhancing and marketing the corridor, but not as a~~  
14       ~~land management document, zoning tool or mandate, highway improvement scoping or prioritization document,~~  
15       ~~or highway management document;~~  
16       ~~—— (ii) accommodates commerce and commercial vehicles and maintains a safe and efficient level of~~  
17       ~~highway services;~~  
18       ~~—— (iii) protects private property rights, including assurances that the private property rights of a person who~~  
19       ~~owns land adjacent to or visible from the road are not in any way diminished by the road being designated a~~  
20       ~~scenic-historic byway or are accommodated through mutually agreeable compensation;~~  
21       ~~—— (iv) precludes the locality having adopted the corridor management plan from establishing goals or~~  
22       ~~commitments outside the locality's jurisdiction; and~~  
23       ~~—— (v) has accommodated all jurisdictions affected or to be affected by the designation of a road as a~~  
24       ~~scenic-historic byway; and~~  
25       ~~—— (f) procedures to ensure that localities choosing to participate in the scenic-historic byways program:~~  
26       ~~—— (i) may exclude from designation any segment of a highway that is inconsistent with the state's criteria~~  
27       ~~for designating scenic-historic byways state or local law or considered inappropriate by the local governing body.~~  
28       ~~Within an excluded segment, a locality may allow off-premises advertising in the form of billboards or painted~~  
29       ~~signs, subject to applicable federal, state, or local laws.~~  
30       ~~—— (ii) may use signage recognized as exceptions or as information signs in all areas along a designated~~

route, provided that the signage complies with 23 U.S.C. 131, Title 60, chapter 5, part 5, Title 75, chapter 15, part 1, and all applicable state or locally adopted rules, requirements, and restrictions."

~~SECTION 2. SECTION 60-2-602, MCA, IS AMENDED TO READ:~~

~~"60-2-602. Scenic-historic byways program -- rules. (1) The department shall adopt rules to effectively administer the scenic-historic byways program. The rules must include the criteria that will be considered for designating a road for inclusion in the scenic-historic byways program:~~

~~(2) In developing the criteria, to be included in the rules, for designating a road for inclusion in the scenic-historic byways program, the advisory council, commission, and department shall specifically address:~~

~~(a) factors that allow each locality choosing to participate in or seeking participation in the scenic-historic byways program the opportunity to:~~

~~(i) enhance the experience of the traveling public;~~

~~(ii) stimulate or allow for economic development and new marketing strategies; or~~

~~(iii) preserve intrinsic resources for the benefit of future generations;~~

~~(b) a methodology by which a locality choosing to participate in or seeking participation in the scenic-historic byways program may participate in the national scenic byways program, described in section 1047 of Public Law 102-240;~~

~~(c) means by which a road may be excluded from designation as a scenic-historic byway by:~~

~~(i) an incorporated municipality for a road or segment of a road within its jurisdiction; or~~

~~(ii) a landowner for a road or segment of a road adjacent to the landowner's private property;~~

~~(d) factors to be considered in assessing the intrinsic, scenic, historic, recreational, cultural, archaeological, educational, or natural qualities of the road nominated for inclusion in the scenic-historic byways program;~~

~~(e) factors to be considered in a locality's corridor management plan, including that the plan:~~

~~(i) serves as a visioning tool to provide direction for enhancing and marketing the corridor, but not as a land management document, zoning tool or mandate, highway improvement scoping or prioritization document, or highway management document;~~

~~(ii) accommodates commerce and commercial vehicles and maintains a safe and efficient level of highway services;~~

~~(iii) protects private property rights, including assurances that the private property rights of a person who~~

owns land adjacent to or visible from the road are not in any way diminished by the road being designated a scenic-historic byway or are accommodated through mutually agreeable compensation;

—— (iv) precludes the locality having adopted the corridor management plan from establishing goals or commitments outside the locality's jurisdiction; and

—— (v) has accommodated all jurisdictions affected or to be affected by the designation of a road as a scenic-historic byway; and

—— (f) procedures to ensure that localities choosing to participate in the scenic-historic byways program:

—— (i) may exclude from designation any segment of a highway that is inconsistent with the state's criteria for designating scenic-historic byways. Within an excluded segment, a locality may allow off-premises advertising in the form of billboards or painted signs, subject to applicable federal, state, or local laws. Within an excluded segment, a locality may allow off-premises advertising in the form of billboards or painted signs, subject to applicable federal, state, or local laws.

—— (ii) may use signage recognized as exceptions or as information signs in all areas along a designated route, provided that the signage complies with 23 U.S.C. 131, Title 60, chapter 5, part 5, Title 75, chapter 15, part 1, and all applicable state or locally adopted rules, requirements, and restrictions."

**NEW SECTION. Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 60, chapter 2, part 6, and the provisions of Title 60, chapter 2, part 6, apply to [section 1].

**NEW SECTION. Section 3. Effective date.** [This act] is effective July 1, 2009.

**NEW SECTION. Section 4. Termination.** [This act] terminates July 1, 2019.

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